

III. REMARKS

Claims 1-26 are pending in this application. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-7, 10-12 and 16-26 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Hayes, Jr. *et al.* (U.S. Patent Pub. No. 2003/0195811 A1), hereafter “Hayes.” Claims 8-9 and 14-15 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Hayes in view of case law. Claim 13 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hayes in view of Warmack (U.S. Patent Pub. No. 2002/0161701 A1), hereafter “Warmack.”

Applicants thank the Examiner for the telephone interview of November 16, 2007, with their representative, Hunter E. Webb. No proposed amendment was submitted in advance of the interview. In the interview, the Examiner discussed with Applicants’ representative features that could be added to the claims to bring them closer to allowability. The Examiner agreed with Applicants that there are differences between the claimed invention and Hayes and suggested that Applicant amend the claims to narrow them in ways such as those enumerated above.

REJECTION OF CLAIMS UNDER 35 U.S.C. §102(e) AND §103(a)

A declaration under 37 C.F.R. 1.131 removing Hayes as a reference under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) is attached to this Amendment. As evidenced in the 37 C.F.R. 1.131 declaration and supporting documentation, Applicants conceived of the invention set forth in the present application prior to June 7, 2001, the effective filing date of the Hayes reference, and constructively reduced the invention to practice with due diligence upon filing of the patent application to which the present patent application claims priority on January 15, 2002. Specifically, the disclosure that is attached to the 1.131 declaration as Exhibit “A” describes a solution for receiving an alert code in a commercial transaction as claimed in the present invention. For the above stated reasons, the above-referenced 35 U.S.C. §102(e) and §103(a) rejections of claims 1-26 based on the reference of Hayes is improper and should be withdrawn. Accordingly, Applicants submit that claims 1-26 are allowable.

VI. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office’s interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office’s combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office’s combinations and modifications have not been separately addressed herein for brevity. However,

Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: April 11, 2008

/Hunter E. Webb/

Hunter E. Webb

Reg. No.: 54,593

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)

RAD/hew